STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Overstride Physical Therapy, LLC
Petitioner **File No. 21-1737**

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 14th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 13, 2021, Overstride Physical Therapy, LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on August 25, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 29, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 29, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 15, 2021. The Department issued a written notice of extension to both parties on January 14, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 28, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on 20 dates of service[1] under procedure codes 97162, 97112, 97140, and 97530, which are described as moderate complexity physical therapy evaluation, neuromuscular reeducation, manual therapy techniques, and therapeutic activities, respectively. In its *Explanation of Benefits* letter issued to the Petitioner, the Respondent denied payment on the basis that the treatments exceeded "the period of care for either utilization or relatedness."

With its appeal request, the Petitioner submitted documentation that identified the injured person's diagnoses as unspecified intracranial injury without loss of consciousness, dizziness and giddiness, and generalized muscle weakness following a June 2020 motor vehicle accident. A May 2021 re-examination report provided by the Petitioner noted that the injured person had problems with muscle weakness, impaired balance, frequent falls/close calls, and difficultly with visual tracking/diplopia and convergence. In addition, the report indicated that the injured person was to receive physical therapy two times per week for 12 weeks.

In its reply, the Respondent reaffirmed its initial determination that the physical therapy treatments were overutilized, citing American College of Occupational and Environmental Medicine (ACOEM) guidelines and Official Disability Guidelines (ODG). Specifically, the Respondent stated:

> In accordance with ACOEM and ODG physical therapy for the chronic pain and headache up to 8 physical therapy treatments is recommended. The medical records do not support this request, as the guidelines have exceeded the recommendation, per documentation therapy has been ongoing for 15-36 visits with ample opportunity given to initiate a home, exercise, activity, self-directed, program … for injury on 3/13/2006. Subjective reports of "increased fatigue, decreased endurance, pain in rib from recent fracture injury, headaches on a regular basis, and increased difficulty with head position changes" per the [Petitioner's] documentation.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

[1] The dates of service at issue include May 6, 13, 16, 20, and 30, 2021; June 3, 6, 10 ,13 17, 20, and 27, 2021; July 1, 11, 15, 18, 22, 25, and 29, 2021; and August 1, 2021.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Centers for Medicare and Medicaid Services (CMS) guidelines and current medical literature for its recommendation.

Based on the submitted documentation, the IRO reviewer explained that the injured person had been receiving physical therapy since January 2019 with an emphasis on "strengthening, balance, habituation and coordination." The IRO reviewer noted that the injured person experienced a fall in February 2021 and was unable to receive treatment for several months. The IRO reviewer explained:

> During that time, [the injured person] had exacerbation of symptoms related to her traumatic brain injury including increased frequency of migraines, decreased strength, impaired balance and coordination deficits in addition to increased onset of shoulder pain, rib pain, decreased endurance and numbness in the hands.

The IRO reviewer opined that, according to the most appropriate practice guidelines, the injured person required skilled therapy due to the deficits in mobility and function. Further, the IRO reviewer opined that the injured person had yet to achieve functional goals to improve functional mobility and neuropathic symptoms, and therefore the physical therapy treatments were not overutilized in frequency or duration. Specifically, the IRO reviewer noted:

> According to the CMS guidelines, "Rehabilitative therapy may be needed, and improvement in an injured person's condition may occur, even when a chronic, progressive, degenerative, or terminal condition exists... The fact that full or partial recovery is not possible does not necessarily mean that skilled therapy is not needed to improve the injured person's condition or to maximize his/her functional abilities."

Based on the above, the IRO reviewer recommended that the Director reverse the Respondent's determination that the physical therapy treatments provided to the injured person on the dates of service at issue were medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent's determination dated August 25, 2021.

For dates of service May 6, 13, 16, 20, and 30, 2021; June 3, 6, 10 ,13 17, 20, and 27, 2021; and July 1, 2021, the Petitioner is entitled to payment in the full amount billed and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). For dates of service July 11, 15, 18, 22, 25, and 29, 2021 and August 1, 2021, the Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford